

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>PAUL REDGATE</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 217,691
<b>UNITED PARCEL SERVICE</b>	)	
Respondent	)	
AND	)	
	)	
<b>LIBERTY MUTUAL INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals from the December 5, 1996 preliminary hearing Order entered by Administrative Law Judge John D. Clark.

**ISSUES**

Respondent alleges the Administrative Law Judge exceeded his jurisdiction in awarding temporary partial disability benefits in the amount of \$147.41 per week.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Although respondent has described the issue it raises on appeal as an allegation that the Administrative Law Judge exceeded his jurisdiction, it appears from review of the record that the issue is, in substance, whether the Administrative Law Judge properly calculated the rate of payment for claimant's weekly temporary disability compensation. Compensability of the claim is not at issue in this appeal. Respondent argues only that the Administrative Law Judge erred in finding claimant entitled to payments at a rate of \$147.41 per week. This argument is not one that addresses an appealable issue listed in

K.S.A. 1996 Supp. 44-534a(a)(2). It is also not an argument which gives rise to a serious issue concerning whether the Administrative Law Judge exceeded his jurisdiction. Respondent does not challenge the Administrative Law Judge's authority to award temporary partial disability compensation. Respondent only takes issue with the Administrative Law Judge's calculation, specifically, whether the Administrative Law Judge properly considered claimant's earnings from a second job. This is not an argument which alleges the Administrative Law Judge exceeded his jurisdiction. Accordingly, the Appeals Board finds it does not have jurisdiction to review the issue raised by respondent on an appeal from a preliminary hearing order. See K.S.A. 1996 Supp. 44-551(b)(2)(A).

**WHEREFORE**, the Appeals Board finds the appeal shall be dismissed and the Order of Administrative Law Judge John D. Clark dated December 5, 1996 remains in effect as originally entered.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 1997.

---

BOARD MEMBER

c: Robert R. Lee, Wichita, KS  
Eric T. Lanham, Kansas City, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director